

1 IN THE UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF TEXAS
3 EL PASO DIVISION
4

5 UNITED STATES OF AMERICA

No. EP:04-CR-2091-KC

6 v.

El Paso, Texas

7 NOEL CEDRO TOLENTINO

January 2, 2008

8
9
10 PLEA OF GUILTY
11 BEFORE THE HONORABLE KATHLEEN CARDONE
12 UNITED STATES DISTRICT JUDGE
13
14

15 APPEARANCES:

16 For the Government: William F. Lewis, Jr.
17 J. Brandy Gardes
18 United States Attorney's Office
19 700 East San Antonio, Suite 200
20 El Paso, Texas 79901

21 For the Defendant: Ray Velarde
22 1216 Montana Avenue
23 El Paso, Texas 79902

24 Proceedings recorded by stenotype. Transcript produced by
25 computer-aided transcription.

1 THE CLERK: Court is back in session.

2 THE COURT: You may be seated.

3 THE CLERK: EP:04-CR-2091, USA versus Florita Cedro
4 Tolentino, Noel Cedro Tolentino and Angelica Tolentino.

5 MS. GARDES: Good afternoon, Your Honor. Brandy
6 Gardes and Bill Lewis on behalf of the United States.

7 MR. ABRAHAM: Good afternoon, Sib Abraham for Florita
8 Tolentino.

9 MR. VELARDE: Good afternoon, Judge Cardone. Ray
10 Velarde on behalf of Noel Cedro Tolentino. We're ready for a
11 plea.

12 MR. ISLAS: Good afternoon, Judge. Luis Islas for
13 Angelica Tolentino, who's present. But I understand if this
14 plea goes through, that the indictment will be dismissed
15 against Angelica.

16 MS. GARDES: That is true, conditioned on Ms. Angelica
17 signing an; affidavit of waiver of contesting the forfeiture in
18 the case which has been given to Mr. Islas.

19 MR. ISLAS: We have it.

20 MS. GARDES: It has to be done in front of a notary.
21 We assume that we will get that one.

22 THE COURT: We're ready to proceed?

23 MR. ABRAHAM: Yes.

24 THE COURT: You are Florita Cedro Tolentino?

25 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

1 THE COURT: My understanding is that you are here
2 today to enter a plea to the offense of conspiracy to defraud
3 the United States Government; is that correct?

4 DEFENDANT FLORITA TOLENTINO: Yes, Judge.

5 THE COURT: And you are Noel Cedro Tolentino?

6 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

7 THE COURT: And, Mr. Tolentino, it's my understanding
8 you are here today to enter a plea to the count of conspiracy
9 to defraud the United States; is that correct?

10 DEFENDANT NOEL TOLENTINO: Yes, it is.

11 THE COURT: All right. Swear them in.

12 (Defendants sworn.)

13 THE COURT: I'm going to ask each of you to do a
14 couple of things. First of all, as we go through the plea, I
15 will be explaining to you a number of things and asking you
16 some questions. If at any point I say something that you don't
17 understand, that you need me to restate to clarify it for you,
18 please let me know that and I will be happy to explain or
19 clarify anything that you don't understand.

20 Do you understand that, Ms. Tolentino?

21 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

22 THE COURT: And, Mr. Tolentino?

23 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

24 THE COURT: As we go through the plea, if you have a
25 question about something, something you want to talk over with

1 your attorney, and you need a moment to discuss something with
2 your attorney, please let me know that, I will be happy to take
3 a short break for either one of you if you want to ask or
4 discuss something with your lawyer.

5 Do you understand that, Ms. Tolentino?

6 DEFENDANT FLORITA TOLENTINO: Yes, Judge.

7 THE COURT: And, Mr. Tolentino?

8 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

9 THE COURT: And, finally, as we go through the plea,
10 there will be a number of questions I will be asking each of
11 you. There are no right or wrong answers to those questions.
12 You have each taken an oath to tell the truth. I expect each
13 of to you listen to the question and answer the question
14 truthfully as it applies to you. In other words, just because
15 I'm doing these pleas together, that doesn't mean that you're
16 not two separate individuals and that you might not have two
17 separate answers to a question. So listen to the question and
18 answer the question truthfully.

19 Do you understand that, Ms. Tolentino?

20 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

21 THE COURT: And, Mr. Tolentino?

22 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

23 THE COURT: So the first thing is that you don't have
24 to plead guilty here this afternoon. If you believe you are
25 innocent of these charges, you should not be entering a plea of

1 guilty.

2 Do you understand that, Ms. Tolentino?

3 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

4 THE COURT: Mr. Tolentino?

5 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

6 THE COURT: If you believe you have a defense to these
7 charges, and you would like to go to trial, you are absolutely
8 entitled to a trial, either a trial before me as the judge, or
9 a jury trial. And if you would like to go to trial in this
10 case, you should not be entering a plea of guilty.

11 Do you understand, Ms. Tolentino?

12 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

13 THE COURT: And, Mr. Tolentino?

14 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

15 THE COURT: If you walked into the courtroom with the
16 idea of pleading guilty, and for whatever reason you change
17 your mind, you decide you don't want to go through the plea,
18 that's fine with me, if you don't want to plead guilty, you
19 don't have to plead guilty, you should not plead guilty in this
20 case unless that's what you really want to do.

21 And I'm explaining all of that to you because I want
22 you both to understand that once we go through this plea, once
23 I explain all the rights that you have and the consequences of
24 entering in plea, once you actually enter your plea of guilty
25 and we adjourn to come back another day for sentencing, at that

1 point it becomes very difficult to withdraw this plea. So you
2 should not plead guilty unless that's what you really want to
3 do in your case.

4 Do you both understand that?

5 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

6 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

7 THE COURT: So let me start with you, Ms. Tolentino.

8 Can you please give me your full, true and correct, legal name?

9 DEFENDANT FLORITA TOLENTINO: Florita Cedro Tolentino.

10 THE COURT: And, Mr. Tolentino, your full, true and
11 correct, legal name?

12 DEFENDANT NOEL TOLENTINO: Noel Cedro Tolentino.

13 THE COURT: And are each of you here today to enter a
14 plea of guilty freely and voluntarily?

15 Ms. Tolentino?

16 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

17 THE COURT: And, Mr. Tolentino?

18 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

19 THE COURT: Have each of you seen a copy of the second
20 superceding indictment in your case? And have you had the
21 opportunity to discuss that with your attorney?

22 Ms. Tolentino?

23 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

24 THE COURT: And, Mr. Tolentino?

25 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

1 THE COURT: Are each of you here today to enter a plea
2 of guilty freely and voluntarily?

3 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

4 THE COURT: And, Mr. Tolentino?

5 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

6 THE COURT: Do either of you have any complaints about
7 anything your attorney has done or failed to do in representing
8 you in your case?

9 Ms. Tolentino?

10 DEFENDANT FLORITA TOLENTINO: None, ma'am.

11 THE COURT: Mr. Tolentino?

12 DEFENDANT NOEL TOLENTINO: No, ma'am.

13 THE COURT: Ms. Tolentino, are you in good physical
14 health?

15 DEFENDANT FLORITA TOLENTINO: In good physical health?

16 THE COURT: Yes.

17 DEFENDANT FLORITA TOLENTINO: Not perfect.

18 THE COURT: All right. Is there any particular
19 ailment that you suffer from?

20 DEFENDANT FLORITA TOLENTINO: A heart problem.

21 THE COURT: All right. Is there a specific diagnosis?

22 DEFENDANT FLORITA TOLENTINO: Yes, prolapse of the
23 ventral -- left ventricle part of my heart.

24 THE COURT: Do you take any medication for that?

25 DEFENDANT FLORITA TOLENTINO: Yes.

1 THE COURT: And what kind of medication is that?

2 DEFENDANT FLORITA TOLENTINO: I forgot the medicine.
3 I forgot. I forgot the medicine. Because they give it to me
4 sometimes. It is the one that is not -- it's the one from
5 Medicare. I'm sorry, I forgot.

6 THE COURT: Do you take it every day?

7 DEFENDANT FLORITA TOLENTINO: Every day, especially
8 when I have palpitations.

9 THE COURT: Is there anything about that medication
10 that you think affects your ability to think clearly here
11 today?

12 DEFENDANT FLORITA TOLENTINO: No.

13 THE COURT: Do you take any other kind of medication?

14 DEFENDANT FLORITA TOLENTINO: No, that's --

15 THE COURT: Have you ever been treated or hospitalized
16 for any sort of mental problems?

17 DEFENDANT FLORITA TOLENTINO: No.

18 THE COURT: Have you ever been treated for any kind of
19 an addiction?

20 DEFENDANT FLORITA TOLENTINO: No.

21 THE COURT: So as you stand here before me,
22 Ms. Tolentino, about ready to enter your plea, are you under
23 the influence of an alcoholic beverage, a narcotic drug, or any
24 medication other than the medication you take for your heart?

25 DEFENDANT FLORITA TOLENTINO: No.

1 THE COURT: Mr. Tolentino, are you in good physical
2 health?

3 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

4 THE COURT: Have you ever been hospitalized or treated
5 by a doctor for any sort of mental problems?

6 DEFENDANT NOEL TOLENTINO: No, ma'am.

7 THE COURT: Have you ever been treated for any kind of
8 an addiction?

9 DEFENDANT NOEL TOLENTINO: No, ma'am.

10 THE COURT: Are you currently taking any kind of
11 medication?

12 DEFENDANT NOEL TOLENTINO: Just high blood pressure
13 medicine, lisinopril.

14 THE COURT: Is there anything about that medication
15 that you think affects your ability to think clearly here
16 today?

17 DEFENDANT NOEL TOLENTINO: No, ma'am.

18 THE COURT: So as you stand here before me about ready
19 to enter your plea, are you under the influence of an alcoholic
20 beverage, a narcotic drug, or any medication other than the one
21 you take for high blood pressure?

22 DEFENDANT NOEL TOLENTINO: No, I'm not.

23 THE COURT: There are plea agreements in each of your
24 cases. Have each of you had the opportunity to go over that
25 plea agreement and discuss it with your attorneys before you

1 signed it?

2 Ms. Tolentino?

3 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

4 THE COURT: Mr. Tolentino?

5 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

6 THE COURT: Does that agreement contain all of the
7 agreements that you have with the U.S. Attorney's Office?

8 Ms. Tolentino?

9 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

10 THE COURT: Mr. Tolentino?

11 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

12 THE COURT: Has anybody made any other or different
13 promise to you to get you to plead guilty here today?

14 Ms. Tolentino?

15 DEFENDANT FLORITA TOLENTINO: No, ma'am.

16 THE COURT: Mr. Tolentino?

17 DEFENDANT NOEL TOLENTINO: No, ma'am.

18 THE COURT: Now, for each of you there are
19 consequences of entering a plea of guilty to a felony offense.

20 Let me ask you, Ms. Tolentino, are you a citizen of
21 the United States of America?

22 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

23 THE COURT: Mr. Tolentino, are you a citizen of the
24 United States of America?

25 DEFENDANT NOEL TOLENTINO: I am not.

1 THE COURT: For you, Ms. Tolentino, as a citizen of
2 the United States a plea of guilty can affect certain, valuable
3 civil rights that you have. It can affect your right to sit on
4 a jury. It can affect your right to vote. It can affect your
5 right to certain Government employment, to certain Government
6 benefits, to certain Government licenses. It can affect your
7 right to carry a firearm. All of those kinds of things can be
8 affected by a plea of guilty here today.

9 Do you understand that?

10 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

11 THE COURT: For you, Mr. Tolentino, if you are not a
12 citizen of the United States of America, a plea of guilty may
13 result in you being deported, excluded, or denied
14 naturalization under our laws.

15 Do you understand that?

16 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

17 THE COURT: For both of you by pleading guilty here
18 today, there are certain legal rights that you give up. We
19 have talked a little bit about the right that each of you have
20 to have a trial. You are each absolutely entitled to a trial,
21 either a trial before me, as I said, or a jury trial. As a
22 matter of fact, we're scheduled to pick that jury this Friday.
23 By entering a plea of guilty, each of you give up the right to
24 a trial in this case. There will no trial for either one of
25 you.

1 Do you understand that, Ms. Tolentino?

2 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

3 THE COURT: Mr. Tolentino?

4 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

5 THE COURT: You have the right to remain silent. That
6 means you have the right to stand here and say absolutely
7 nothing at all regarding this offense. But by entering a plea
8 of guilty, each of you give up the right to remain silent in
9 your case.

10 Do you understand that, Ms. Tolentino?

11 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

12 THE COURT: Mr. Tolentino?

13 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

14 THE COURT: You have the right to confront witnesses.
15 You have the right to have the witnesses who have made these
16 allegations against you brought into the courtroom. You have
17 the right to hear their testimony and to have your attorneys
18 cross-examine them about what they allege you did in this case.
19 By entering a plea of guilty, each of you give up the right to
20 hear from those witnesses and to have your attorney
21 cross-examine them.

22 Do you understand that, Ms. Tolentino?

23 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

24 THE COURT: Mr. Tolentino?

25 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

1 THE COURT: And you have the right to the presumption
2 of innocence. Under our system of justice, as you stand here
3 today, the law presumes that you are innocent of these charges.
4 But by entering a plea of guilty, you give up the right to that
5 presumption of innocence.

6 Do you understand that, Ms. Tolentino?

7 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

8 THE COURT: Mr. Tolentino?

9 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

10 THE COURT: Now, in each of your cases, it is the
11 United States Government who has brought these charges against
12 you. And, therefore, it becomes their obligation, their burden
13 of proof to prove the case against you, and to prove it beyond
14 a reasonable doubt. By entering a plea of guilty, you give up
15 the right to require the Government prove its case against you,
16 and that they prove it beyond a reasonable doubt.

17 Do you understand that, Ms. Tolentino?

18 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

19 THE COURT: And, Mr. Tolentino?

20 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

21 THE COURT: So I want to go over with you right now
22 what it is the Government would have to prove in each of your
23 cases. Since each of you are pleading to the offense of
24 conspiracy to defraud the United States, the Government would
25 have to prove, essentially, the same thing in each of your

1 cases. I will go over it.

2 In each of your cases the Government would have to
3 prove that you, as the defendant, and at least one other person
4 made an agreement to commit the crime of defrauding the United
5 States as charged in your indictment. The Government would
6 have to prove that you, as the defendant, knew the unlawful
7 purpose of that agreement and joined in it willfully, that is,
8 with the intend to further the unlawful purpose.

9 And, the Government would have to prove that one of
10 the conspirators, during the existence of that conspiracy,
11 knowingly committed at least one of the overt acts described in
12 that indictment in order to accomplish some object or purpose
13 of the conspiracy.

14 Do you understand what the Government would have to
15 prove against you, Ms. Tolentino?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And do you understand what the Government
18 would have to prove against you, Mr. Tolentino?

19 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

20 THE COURT: And do each of you understand that by
21 pleading guilty here today you give up the right to require
22 that the Government prove all of that against you beyond a
23 reasonable doubt?

24 Ms. Tolentino?

25 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

1 THE COURT: And, Mr. Tolentino?

2 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

3 THE COURT: Now, I want to talk to each of you a
4 little about sentencing. I'm not going to be sentencing either
5 of you here today. You will be coming back another day for
6 sentencing. However, before you enter your plea, I want each
7 of you to understand a little bit about sentencing here in
8 federal court.

9 The first thing I want you both to understand is that
10 the maximum statutory penalty for this offense is up to five
11 years of incarceration, a \$250,000 fine, three years supervised
12 release, and a \$100 special assessment.

13 Do each of you understand that?

14 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

15 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

16 THE COURT: Now in each of your cases, a probation
17 officer has been assigned. That probation officer will be
18 preparing a Presentence Investigation Report. In that report
19 each of you will be placed in what's called a Total Offense
20 Level and a Criminal History Category.

21 The Total Offense Level is based on the offense that
22 you've entered a plea of guilty to. In other words, the
23 offense of conspiracy to defraud the United States. The
24 Criminal History Category is based on your particular criminal
25 history. Then, at the time of sentencing, using what's called

1 the sentencing table -- down the side here is the Total Offense
2 Level, and across the top is the Criminal History Category.
3 Using the information provided by the probation department we
4 go down to your Total Offense Level, across to your Criminal
5 History Category. Where those two meet is what's called the
6 guideline range of sentence for each of you in your individual
7 cases.

8 Do you understand that?

9 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

10 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

11 THE COURT: Now, I don't have that information in
12 front of me. And I want to mention to both of you at this
13 point that it is my understanding, having read your plea
14 agreement, that there is actually an agreement -- binding
15 sentencing agreement as part of this plea agreement. So -- and
16 it is set forth here that part of the binding agreement is that
17 there will be -- the sentence would include three years
18 probation, no fine or restitution, and forfeiture of any and
19 all interest that you have in properties that have been
20 identified in your indictment.

21 Do you understand that that's part of the agreement
22 that you have with the Government?

23 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

24 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

25 THE COURT: And that its a binding agreement, which

1 means that if I don't follow it, that I will allow you to
2 withdraw your guilty pleas.

3 Do you both understand that?

4 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

5 DEFENDANT NOEL TOLENTINO: Absolutely.

6 THE COURT: So what I want to explain to you, however,
7 is that I will still be getting that Presentence Investigation
8 Report. That report is a report that I use to determine what
9 is a fair and reasonable sentence in your case.

10 If I were not to follow that plea agreement, then I
11 would allow you to withdraw your plea, however. So the Court
12 has reviewed that. At this point I don't know for sure whether
13 I will agree or not agree. But I want you both to understand
14 should I not agree to that sentencing agreement, then I would
15 allow you to withdraw your plea at that time.

16 Do you understand that?

17 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

18 DEFENDANT NOEL TOLENTINO: Yes, ma'am, I do.

19 THE COURT: And that Presentence Investigation Report
20 will be prepared prior to your day of sentencing so that both
21 of you will have the opportunity to review that.

22 Do you understand that, Ms. Tolentino?

23 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

24 THE COURT: And, Mr. Tolentino?

25 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

1 THE COURT: I also want you to understand that
2 depending on the sentence this Court were to give to you, that
3 there is no such thing as parole in the federal system. I
4 don't want either of you to enter a plea of guilty here today
5 with the idea that you get to appear in front of a parole board
6 and that somehow a parole board can shorten your term of
7 sentence. There is no such thing as parole in the federal
8 system.

9 Do you understand that?

10 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

11 THE COURT: Mr. Tolentino?

12 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

13 THE COURT: Now there is good-time credit. And what
14 that means for each of you is should either of you get a
15 sentence greater than 12 months, it can be anything greater
16 than 12 months, even 12 months and a day, but should this Court
17 sentence you to a sentence greater than 12 months, then you
18 become eligible to earn good-time credit while you are
19 incarcerated. Based on your plea agreement that is not
20 contemplated. But you both need to understand there is no
21 parole in the federal system.

22 Do you understand that?

23 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

24 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

25 THE COURT: And should this Court sentence you to a

1 period of incarceration, once the incarceration was completed,
2 then there would be a term of supervised release. Supervised
3 release means that although you are no longer incarcerated, you
4 are still under the terms and conditions of this Court. And
5 you would be under this Court's supervision for a period of
6 years. As long as you completed these terms and conditions,
7 then, hopefully, you would not be back in this courtroom again.
8 But if you violate a term or condition of your supervised
9 release, you're brought back in front of me, then you could go
10 back to prison for that. Do you both understand that?

11 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

12 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

13 THE COURT: Now since there is a plea agreement in
14 your case, I want each of you to understand by entering into
15 that plea agreement you have limited your rights to appeal.
16 That doesn't mean you can't appeal. What it means is that you
17 have limited your rights to appeal. You could still appeal for
18 ineffective assistance of counsel. You could appeal if there
19 was some sort of prosecutorial misconduct that rose to a
20 Constitutional violation. But, by entering into a plea
21 agreement in your case, each of you have limited your rights to
22 appeal.

23 Do you understand that, Ms. Tolentino?

24 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

25 THE COURT: And, Mr. Tolentino?

1 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

2 THE COURT: Now, Mr. Abraham, do you have any concerns
3 regarding your client's competency?

4 MR. ABRAHAM: I do not Your Honor.

5 THE COURT: Mr. Velarde, any concerns regarding your
6 client's competency?

7 MR. VELARDE: I have none.

8 THE COURT: Anything in the Government's file that
9 would raise the issue of competency?

10 MS. GARDES: We have no such information, Your Honor.

11 THE COURT: Let me start with you, Ms. Tolentino. Can
12 you please tell me how old you are?

13 DEFENDANT FLORITA TOLENTINO: I was born January 22,
14 1935.

15 THE COURT: Are you -- how far did you go in school?

16 DEFENDANT FLORITA TOLENTINO: I have a Bachelor of
17 Science in nursing.

18 THE COURT: Where did you attend -- get your nursing
19 degree?

20 DEFENDANT FLORITA TOLENTINO: In the Philippines.

21 THE COURT: Are you married?

22 DEFENDANT FLORITA TOLENTINO: Yes.

23 THE COURT: Do you have any children?

24 DEFENDANT FLORITA TOLENTINO: I have five.

25 THE COURT: And how old are they?

1 DEFENDANT FLORITA TOLENTINO: Starting from my eldest
2 one -- I have to count. There are five of them.

3 THE COURT: Okay.

4 DEFENDANT FLORITA TOLENTINO: First child is born
5 1957. And then Noel, 1960, the second one. And then the third
6 one was after five years.

7 THE COURT: 65.

8 DEFENDANT FLORITA TOLENTINO: Yeah. And the next one
9 was -- I forgot.

10 THE COURT: Suffice it to say, however, all of your
11 children are adults.

12 DEFENDANT FLORITA TOLENTINO: Yep.

13 THE COURT: Are they all here in the United States or
14 different place?

15 DEFENDANT FLORITA TOLENTINO: All in the United
16 States, in Texas.

17 THE COURT: Okay. And how about you, Mr. Tolentino,
18 how old are you?

19 DEFENDANT NOEL TOLENTINO: 47.

20 THE COURT: How far did you go in school?

21 DEFENDANT NOEL TOLENTINO: I have a Bachelor's in
22 Business Administration and part credits for Master's -- MBA.

23 THE COURT: Where did you get your Bachelor's?

24 THE DEFENDANT: New York University business school.

25 THE COURT: Okay. And are you married?

1 DEFENDANT NOEL TOLENTINO: Yes, I am.

2 THE COURT: Do you have any children?

3 DEFENDANT NOEL TOLENTINO: I have two.

4 THE COURT: How old are they?

5 DEFENDANT NOEL TOLENTINO: One is 19, a girl. And the
6 second one is a boy, 14 years old.

7 THE COURT: Where do they live?

8 DEFENDANT NOEL TOLENTINO: They live in Houston. My
9 daughter is in University of Virginia during the year.

10 THE COURT: But she is till at home. She's not
11 married.

12 DEFENDANT NOEL TOLENTINO: She's not married.

13 THE COURT: Now in just a moment I'm going to have the
14 assistant U.S. Attorney read for me a summary of the evidence
15 in each of your cases. I assume it will be the same one. But
16 as she reads the summary that applies to you, I'm going to ask
17 you to listen carefully, because when she's done, I'm going to
18 ask you if there is anything in that summary that you disagree
19 with, that you think is incorrect or inaccurate information.
20 So I need you to listen carefully to the summary.

21 Are you going to read the same one?

22 MS. GARDES: Both the same. And because it is rather
23 lengthy, and Court has sat through the trial, if I may
24 summarize the facts?

25 THE COURT: That would be fine. Is it based on the

1 factual basis attached?

2 MS. GARDES: Exactly. Rather than the read the whole
3 thing, a brief outline of what the Government would show as
4 agreed to in the factual basis attached to the plea agreement.

5 THE COURT: So, Ms. Tolentino, Mr. Tolentino, please
6 listen carefully.

7 DEFENDANT FLORITA TOLENTINO: I'm sorry?

8 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

9 MR. ABRAHAM: Thank you.

10 THE COURT: Ready?

11 MS. GARDES: In this case, Your Honor, should the
12 matter have proceeded to trial, the Government would show that
13 sometime prior to January 31, 2002, the defendants, through
14 their companies, Omni, which is OmniConsortium, Multicultural
15 Professionals, and Multicultural Education Consultants, came up
16 with the plan to bring Philippine teachers to teach in Texas,
17 on or about January 31, 2002. The first trip from Brownsville
18 Independent School District concluded with letters of intent to
19 employ 55 teachers being issued.

20 On March 19, 2002, defendant, Florita Cedro Tolentino,
21 sent a letter to BISD, Brownsville Independent School District,
22 confirming no teachers would leave the Philippines unless and
23 until there was a specific job assignment.

24 On May 21st, the Board of Trustees met and confirmed
25 hiring of 15 teachers, but a letter dated July 2, 2002,

1 informed the defendants no jobs for them -- the remaining
2 teachers were guaranteed.

3 On or about July 8, 2002, the BISD sent a letter to
4 Omni, indicated 16 specific teachers approved and hired, the
5 remainder would not be hired. Subsequently, three more
6 teachers were, in fact, hired.

7 On or about July 16, 2002, the defendant, Florita
8 Tolentino, directed staff members at MEC in the Philippines to
9 manufacture contracts for all 54 teachers who were originally
10 given letters of intent to employ. Between July 22nd and
11 August 1st, defendant, Florita Tolentino, delivered the visa
12 application packets to the United States embassy in Manila in
13 order to secure H1B visas for entry into the United States for
14 all 54 teachers. Between August 2nd and August 10, 2002, 37
15 non-hired teachers arrived in the United States utilizing the
16 H1B visa acquired, were met by Noel Cedro Tolentino and brought
17 to El Paso, Texas, which is within the Western District of
18 Texas.

19 On or about November 24, 2002, a similar trip by
20 Ysleta School District took place where YISD issued 53 letters
21 of intent to teachers. Subsequently, on January 29, 2003,
22 defendant, Noel Tolentino, wrote to administration at YISD and
23 indicated the language used in their letter of intent needed to
24 be changed because the one used might cause problems at CIS,
25 which is Citizenship and Immigrant Service, a division of the

1 Department of Homeland Security.

2 On April 25, 2003, YISD administrators met with both
3 defendants, at which time the defendants were informed that
4 YISD would not be hiring the teachers. At that time Noel Cedro
5 Tolentino gave YISD verbal assurances the teachers would not
6 leave the Philippines without confirmed employment. However,
7 YISD administration continued to sign and complete I-129
8 petitions in case the teachers would be hired.

9 Between May 6th and June 10th, staff members at Omni,
10 directed by Noel Tolentino, filed I-129 petitions with CIS for
11 teachers without confirmed employment.

12 On July 14th YISD administrators sent written
13 cancellation for all but two teachers. After that time
14 defendant, Florita Cedro Tolentino, sent at least nine teachers
15 to the U.S. Embassy in Manila to secure visas and canceled
16 letters of intent. And between July 20, 2003, and August 12,
17 2003, 44 teachers without employment entered the United States
18 on such visas.

19 In Socorro, on December 8th and March 16th, Socorro
20 Independent School District administrators took trips to the
21 Philippines, which concluded with 66 letters of intent, between
22 the two trips, being issued. While on the second trip the
23 interim superintendent was fired. On April 16th, the new
24 interim superintendent directed another assistant administrator
25 to inform Noel Tolentino the Philippine teacher program had

1 been canceled and no teachers would be needed, except for five
2 specific teachers.

3 On April 25, 2003, defendant sent correspondence to
4 SISD indicating he understood the need to hire local teachers.
5 Despite that, SISD administrators continued to complete I-129s
6 for filing so that the teachers would be ready to come to the
7 United States if circumstances changed. These I-129 petitions
8 were filed between April 24th and June 6, 2003.

9 After receiving written notification on or about May
10 14, 2003 that SISD would hire only five specific teachers and
11 no others, defendant, Florita Tolentino, directed MEC staff to
12 create fraudulent employment letters on SISD letterhead for
13 each of the 59 teachers previously given letters of intent by
14 SISD. These fraudulent employment letters were included in
15 packets of information submitted to the United States Embassy
16 in support of the teachers' application for H1B visas.

17 Between May 29, 2003 and July 29, 2003, SISD teachers
18 applied for and received H1B visas based on these employment
19 letters. Between June 16, 2003 and August 1, 2003, the
20 teachers entered the United States on said visas.

21 In El Paso Independent School District January 26,
22 2003, administrators went and issued contracts, not letters of
23 intent. Subsequently, on June 23rd, an EPISD administrator
24 sent Omni written notice canceling three of the alien teachers'
25 contracts. Between July 7, 2003 and July 15, 2003, at the

1 direction of the defendants, these three alien teachers applied
2 for and received H1B visas based on canceled contracts they
3 entered on August 13, 2003.

4 Finally, in South San Antonio School District on
5 February 26, 2003, defendant, Noel Tolentino, gave a
6 presentation to the board of trustees in which he indicated
7 there was no application to hire any Filipino teachers, and the
8 19 petitions needed to be filed in order to bring the alien
9 teachers into the United States to interview for a job. In
10 April of 2003 South San Antonio issued letters of intent to 21
11 alien teachers.

12 Between June 6, 2003 and June 26, 2003, H1B visas were
13 applied for and issued to the 21 teachers based on letters of
14 intent. On July 28, 2003, the teachers entered the United
15 States on these visas but only two teachers were hired.
16 Defendants, Florita Cedro Tolentino and Noel Cedro Tolentino,
17 now admit they conspired to defraud the United States and its
18 agencies, the Department of Homeland Security and Bureau of
19 Citizenship and Immigrant Services and the Department of State,
20 by failing to tell them the alien teachers did not have
21 confirmed employment.

22 Those would be the facts.

23 THE COURT: All right. Ms. Tolentino, did you hear
24 everything Ms. Gardes told the Court?

25 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

1 THE COURT: Is there anything in that summary that you
2 disagree with, that you think is incorrect?

3 DEFENDANT FLORITA TOLENTINO: I have some notes about
4 the dates.

5 MR. ABRAHAM: May I confer?

6 THE COURT: Sure. While she's reviewing that,
7 Mr. Tolentino, is the summary that Ms. Gardes gave me correct
8 in your case?

9 DEFENDANT NOEL TOLENTINO: No, ma'am.

10 THE COURT: Okay.

11 DEFENDANT NOEL TOLENTINO: I had problems when I read
12 it.

13 THE COURT: What do you want to correct?

14 DEFENDANT NOEL TOLENTINO: Well, I --

15 THE COURT: Do you want to talk about it?

16 MR. VELARDE: Go ahead.

17 DEFENDANT NOEL TOLENTINO: Okay. If I'm going to do
18 this, I may make comments on the accuracy of the factual basis.
19 On the second page on -- under Brownsville, Page 11 --

20 THE COURT: Okay.

21 DEFENDANT NOEL TOLENTINO: May 21, 2002, the BISD
22 board of trustees met and confirmed the hiring of 15 teachers
23 for the district. That's not true. They hired 55. And I
24 believe that prosecutors know that fact.

25 THE COURT: So instead of 15 that should say 55.

1 DEFENDANT NOEL TOLENTINO: Yes. All those that went
2 to the Philippines to hire were approved by the board. That
3 was common knowledge. People in the office, as well as Nieda
4 Ruth Soto, who could not remember that fact, could not even
5 remember if she was at the meeting.

6 THE COURT: We could try the case over again. Just
7 tell me what you're trying to correct. So instead of saying 15
8 it should say 55.

9 DEFENDANT NOEL TOLENTINO: Yes.

10 MR. VELARDE: Judge, in the interest of, I guess, a
11 better understanding, I would ask the Court to please allow for
12 me to visit with Mr. Tolentino before he proceed into more
13 detail.

14 THE COURT: Sure.

15 (Attorney and client conferring.)

16 THE COURT: Ms. Tolentino has conferred.

17 MR. ABRAHAM: Basically, Your Honor, the factual basis
18 that has been read to the Court by Ms. Gardes is basically
19 true.

20 THE COURT: All right.

21 MR. ABRAHAM: There are no corrections we want to make
22 at this juncture.

23 THE COURT: All right. So then as your attorney has
24 indicated, there are no corrections you wish to make to this
25 factual basis; is that correct?

1 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

2 THE COURT: We will wait for Mr. Tolentino to go
3 through his.

4 MR. ABRAHAM: May Ms. Tolentino be seated, Your Honor?

5 THE COURT: Sure. Until we're ready.

6 MS. GARDES: Perhaps we could speed this along by
7 clarifying this to the defendant that is what the Government
8 believes it can prove. That, additionally, and especially in
9 light of the Brownsville, we have a board of trustees member
10 that was at that meeting that would be testifying in this
11 trial, a Pat Leman, who would testify it was 15. That's where
12 that statement comes from.

13 THE COURT: Gotcha.

14 DEFENDANT NOEL TOLENTINO: Your Honor, I don't know
15 what procedures are for this kind of --

16 MR. VELARDE: Tell the judge.

17 DEFENDANT NOEL TOLENTINO: If -- I need to be honest
18 and tell you what my version of the factual basis where I give
19 my comments on this thing. So, um --

20 THE COURT: So you told me about the 55. What else
21 did you want to correct?

22 DEFENDANT NOEL TOLENTINO: That evidence exists, Your
23 Honor, in the vault of BISD that there were 55, anyway. Ysleta
24 Independent School District, on the second paragraph, just
25 explaining that the letter of intent needed to be changed

1 because they were recruiting some teachers. And it needed to
2 be something stronger than a letter of intent because they
3 needed them for the winter term.

4 The third paragraph, April 25th, I truthfully say that
5 meeting never existed, never occurred. I was not there.
6 Martha Dominguez, in the first trial testified that she doesn't
7 remember me being there. And I have a Visa receipt being in
8 Houston eating at Papasitos on that date. And --

9 THE COURT: So you deny being at this meeting?

10 DEFENDANT NOEL TOLENTINO: The fourth paragraph
11 between May 6th and June 10th, staff members at Omni directed
12 by defendant Noel Cedro Tolentino filed -- I have never
13 instructed anybody at Omni to file an I-129 petition in my
14 whole entire life.

15 THE COURT: So you deny that paragraph; is that
16 correct?

17 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

18 THE COURT: Go ahead.

19 DEFENDANT NOEL TOLENTINO: Socorro Independent School
20 District, third paragraph, April 16, 2003, SISD administrator
21 informed defendant, Noel Cedro Tolentino, that the new interim
22 superintendent canceled Philippine teacher program and no
23 teachers needed -- it's just the first sentence.

24 THE COURT: Slow down. This gentlemen still has to
25 take down what you said --

1 DEFENDANT NOEL TOLENTINO: The first sentence of the
2 third paragraph ending with "except for five specific
3 teachers". Also, that is not true. We may have had a meeting
4 April 16th, but Mr. Bustamante said to me "I'm going to do the
5 right thing. And I'm going to -- you know, my job's in
6 jeopardy here. But we want these teachers. And in spite of
7 all the politics over here, I'm going to, you know, help these
8 teachers find positions." That was what he said to me.

9 He did not tell me about five specific teachers on
10 April 16th. As a matter of fact, the first time I heard of the
11 five specific teachers was when he visited with the teachers
12 when we were at Holiday Inn and he met with the teachers twice,
13 not once, as he admitted in court. Twice on the second meeting
14 he said, "I have here a list of five teachers that, you know,
15 we're processing right now." And he gave me the piece of paper
16 and I read the names. That is the truth.

17 THE COURT: All right.

18 DEFENDANT NOEL TOLENTINO: April 25th defendant, Noel
19 Cedro Tolentino, said correspondence to SISD administrator
20 indicating he understood SISD's need to hire local teachers.
21 He asked me to write that letter, Your Honor. His job was in
22 jeopardy and he specifically asked me to write what you would
23 call a "CYA" letter, you know. Because he said "I don't want
24 anybody suing us. I don't want, you know -- being in trouble
25 because of this." The new administration does not -- did not

1 like Mr. Aguilar and so-on-and-so-forth.

2 On the fourth paragraph it says, "After receiving
3 written notification on or about May 14, 2003, that SISD would
4 hire only five specific teachers and no others." I can say
5 this, that in the first trial, Pablo testified he never saw
6 that letter and we didn't know about it. On -- the first time
7 we heard about the five teachers was two days after the
8 teachers arrived. They arrived on June 15th or 16th. We
9 received a letter from the clerk. That is the first one to
10 know who's hired on the 18th.

11 THE COURT: Let me ask a question, on this one it
12 doesn't talk about you. It talks about Florita. My concern is
13 with correction -- I don't know what Ms. Tolentino knew. And
14 I'm not so sure I'm going to allow you to tell me what she
15 knew.

16 DEFENDANT NOEL TOLENTINO: Yes, ma'am, I agree.

17 Page 13, El Paso Independent School District, on June
18 23, 2003 EPISD administrator sent Omni written notice canceling
19 three of the alien teachers' contracts. There were actually
20 five, if I may add, it was at my direction.

21 She was the first one to call me. And she said,
22 "Noel -- it was Nancy Evans. She said, "Noel, I'm not going to
23 need the English teachers. What do I do?" And I made a
24 comment and said to Ms. Evans, "Well, you need to write the
25 teachers, for sure write INS, and call Pablo or Rory at the

1 office. They will know what to do."

2 And the second paragraph of El Paso ISD, between July
3 7th and 15th, at the direction of the defendants, these three
4 alien teachers applied and received H1B visas based on now
5 canceled contracts. That is absolutely not true for myself. I
6 actually met with these three alien teachers that were given
7 canceled notices in the Philippines. We had -- we had what's
8 called a in-service. It was a big celebration ready to go to
9 the United States of America.

10 They were informed that they were rejected by El Paso
11 ISD. They came to me at the end of the day and made their
12 appeal to say, could you call someone, Marcia Brown, changed
13 their mind. And I said, "I will tell you what, you're on the
14 front of the list for English teachers for next year. But
15 you're not going this year."

16 That's what I told those three. That is the truth.

17 South San Antonio, first paragraph, second sentence,
18 in that presentation he assured the board there was no
19 obligation to hire the Philippine teachers and the I-129
20 petitions needed to be filed in order to bring the alien
21 teachers into the United States to interview for a job. That
22 is a misstatement of what I said. We have the evidence -- I
23 heard it again. They always ask, what do we do when we get 20
24 teachers or ten teachers and maybe one or two are not hired by
25 campus principals because of the way they dress or style? And

1 that's when I say, "Give them to me. They're always schools
2 down in the Valley that need math, science and special ed
3 teachers." But no -- I would never say -- and I did not in
4 this particular instance say that just go hire teachers you
5 have no obligation to hire.

6 So I -- that's a misstatement.

7 THE COURT: All right.

8 DEFENDANT NOEL TOLENTINO: Third paragraph, third
9 sentence, on July 28, 2003, the teachers entered the United
10 States on the SSA sponsored visas. Only two teachers were
11 hired by South San Antonio Independent School District. I can
12 only say that I was there myself when I heard Ms. Woodard say
13 "I wish you all arrived a week earlier because all of you would
14 have been hired. And our principals panicked and they just got
15 permanent substitutes." But that's the reason why they hired
16 20 out of the Philippines and picked up two in the U.S.

17 It was just -- they were just late. It's not that
18 they didn't want the 20. It's not that -- I mean, why would
19 they write I-129s for 20 if they needed less than that? That's
20 all.

21 THE COURT: All right. Mr. Tolentino -- and the Court
22 has noted where you have made those clarifications or, in some
23 cases, denials. You understand that you are here to enter a
24 plea to the offense of conspiracy to defraud the United States.
25 I've gone over with you what the elements of the conspiracy

1 are. Now, as you know, because we sat through a five week
2 trial, there is much disputed about -- even between different
3 witnesses about the exact dates, the exact facts, et cetera.
4 But in order for this Court to be able to take a plea, I have
5 to make sure you understand that you are pleading to the offense
6 of conspiracy to defraud the United States. It doesn't
7 necessarily mean you agree with every ounce of that factual
8 basis. That's what they believe they can prove if they were to
9 go to trial. I want to make sure you understand what you're
10 pleading to.

11 So with that clarification, is it still your intent to
12 plea to conspiracy to defraud the Government?

13 DEFENDANT NOEL TOLENTINO: The plea, Your Honor, is
14 the last paragraph of page 13, which is to say that Noel
15 Tolentino now admits that he defrauded the United States and
16 its agencies by failing to tell them the alien teachers did not
17 have confirmed appointments, I wouldn't disagree with that --

18 THE COURT: Let me clarify. You're not pleading to the
19 factual basis. You're pleading to the indictment, which are the
20 elements I went over with you previously that there had been an
21 agreement to commit the crime of defrauding the Government,
22 that -- parties to that conspiracy, and that some -- one of the
23 conspirators did a positive step to have that overt act alleged
24 in your indictment. In just a minute I'm going to read the
25 indictment. You're not pleading to the factual basis. You're

1 pleading to the indictment.

2 DEFENDANT NOEL TOLENTINO: I would agree with that
3 then.

4 THE COURT: You want to proceed?

5 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

6 THE COURT: With those clarifications -- because you
7 dispute some of the information in that factual basis?

8 DEFENDANT NOEL TOLENTINO: Absolutely.

9 THE COURT: All right. So noted for the record.
10 Any clarifications from the Government?

11 MS. GARDES: For the purposes of the record, it's
12 minor. But just so there is a record, as I said, Pat Leman,
13 who's a Brownsville board member, would testify in a new trial
14 that only 15 teachers were confirmed on May 21st, 22nd. Martha
15 Dominguez and Raye Lokey would be testifying to the meeting on
16 or about April 25th, may have been the 24th. Pablo would
17 testify, in fact, the defendant did direct him to file the
18 Ysleta I-129s. And that Bustamante would testify that he told
19 Mr. Tolentino that the new interim superintendent canceled the
20 Philippine program. Elen Nakpil would testify she had a
21 confrontation prior to leaving the Philippines with this
22 defendant, Mr. Tolentino, that he knew she had no employment
23 and to come on down, he would find her a job. And as far as
24 South San Antonio, what is put in the factual basis is a
25 summary of what was said.

1 There is a tape and transcript that has been
2 previously entered in the prior trial for any dispute as to
3 what was said.

4 THE COURT: So noted, again, for the record.

5 At this time Ms. Tolentino, Mr. Tolentino, the Court
6 is going to read Count I of your indictment and each of you
7 will need to enter your plea. So please listen carefully.

8 The United States of America versus Omni Consortium,
9 Inc., Multicultural Professionals, Multicultural Educational
10 Consultants, Florita Cedro Tolentino, Noel Cedro Tolentino, and
11 Angelica Tolentino, the grand jury charges Count I, beginning
12 on or about July 8, 2002 and continuing to on or about April
13 28, 2005, in the Western District of Texas, the Southern
14 District of Texas and within the special extraterritorial
15 jurisdiction of the United States, and elsewhere, defendants
16 Omni Consortium, Inc., Multicultural Professionals,
17 Multicultural Educational Consultants, Florita Cedro Tolentino,
18 Noel Cedro Tolentino, and Angelica Tolentino, knowingly,
19 conspired, combined, confederated, and agreed together, and
20 with each other, and with others known, but not indicated
21 herein, and others unknown to the grand jury, to defraud the
22 United States and agencies thereof, to wit, the United States
23 Department of Homeland Security, and the United States
24 Department of State, and to utter and obtain visas, permits,
25 and other documents prescribed by statute and regulation for

1 entry into and as evidence of authorized stay and employment in
2 the United States, knowing it to have been procured by means of
3 false claim and statement, and otherwise, procured by fraud in,
4 violation of Title 18 United States Code, Section 1546.

5 To this offense, how did you wish to plea
6 Ms. Tolentino?

7 MR. VELARDE: We weren't pleading guilty -- not to the
8 1546 --

9 THE COURT: Just to the first part. All right.

10 MR. VELARDE: 371. We took an abundance of caution to
11 eliminate -- because it does not exist. Any mention of visa
12 fraud or alien smuggling. And what is reflected in the last
13 paragraph --

14 THE COURT: It's a portion of Count I.

15 MR. VELARDE: That is correct, a portion.

16 MS. GARDES: That's correct. It's a multi-object
17 conspiracy. They are pleading to one object, but not the
18 other. And I believe it is object one of the conspiracy.

19 THE COURT: Okay. So let me go through it again, just
20 to defraud the United States.

21 United States of America versus Omni Consortium Inc.,
22 Multicultural Professionals, Multicultural Educational
23 Consultants, Florita Cedro Tolentino, and Noel Cedro Tolentino,
24 and Angelica Tolentino, the grand jury charges, Count I, that
25 on or about -- I'm sorry. Beginning on or about July 8, 2002

1 and continuing to on or about April 28, 2005, in the Western
2 District of Texas, the Southern District of Texas, and within
3 the special extraterritorial jurisdiction of the United States,
4 and elsewhere, defendants, Omni Consortium, Inc., Multicultural
5 Professionals, Multicultural Educational Consultants, Florita
6 Cedro Tolentino, Noel Cedro Tolentino, and Angelica Tolentino,
7 knowingly conspired, combined, confederated, and agreed
8 together, and with each other, and with others known, but not
9 indicted herein, and others unknown to the grand jury to
10 defraud the United States and agencies thereof, to wit, the
11 United States Department of Homeland Security, and the United
12 States Department of State.

13 To that violation, how did you wish to plea,
14 Ms. Tolentino?

15 DEFENDANT FLORITA TOLENTINO: Guilty, I plead guilty.

16 THE COURT: And, Mr. Tolentino?

17 DEFENDANT NOEL TOLENTINO: I plead guilty.

18 THE COURT: All right. Ms. Tolentino, Mr. Noel
19 Tolentino, then based on the provided summary of the evidence,
20 and your individual pleas, the Court is going to make the
21 following findings: The Court is going to find that each of
22 you are fully competent and capable of entering an informed
23 plea here this afternoon. The Court is going to find that each
24 of you are aware of the nature of the charges against you and
25 the consequences of that plea. The Court is going to find that

1 your individual pleas are knowing and voluntary pleas,
2 supported by an independent basis in fact that contains each
3 and every essential element of the offense.

4 I will accept your plea of guilty. I will find you
5 each guilty of the offense to which the plea of guilty was
6 entered and enter a judgment of guilty in each of your cases.
7 As I said before, you will come back for sentencing. A
8 probation officer has been assigned. And that probation
9 officer will be preparing a report.

10 Before sentencing it is important that you go over
11 that report with your attorney. And if there's anything in
12 that report that you disagree with, that you think is incorrect
13 or inaccurate information, you need to let your attorney know
14 that so that he can file the appropriate paperwork with me and
15 let me know that. I want you to know in order to prepare the
16 report, its likely your probation officer will want to
17 interview you.

18 At that interview you are absolutely entitled to have
19 your attorney with you. If you would like your attorney there
20 with you, let him know that, let your probation officer know
21 that so that they can coordinate a time. The only other thing
22 I want to clarify before we end this plea is that as part of
23 that plea, you have agreed to forfeit certain items that were
24 listed.

25 Ms. Gardes, do you want to go over those items?

1 MS. GARDES: Your Honor, at this time the Government
2 has the following assets in its possession to which we are
3 seeking forfeiture. That is, a Wells Fargo Bank account
4 including any and all accumulated interests from the date of
5 seizure. The account number ends in 5604.

6 Actually, it has a zero balance. It was seized
7 though. BankOne account and any and all accumulated interest,
8 which as of last week was \$15,193.23. The last four digits is
9 4406.

10 Bank of America account, any and all accumulated
11 interest, which of last week was approximately \$6,963.69. The
12 last four digits on that account are 9242.

13 A Bank of America account, and any and all accumulated
14 interest, which is approximately \$30,056.34. The last four
15 digits 2764.

16 A United Central Bank account, and any and all
17 accumulated interest of, approximately, \$33.96. The last four
18 digits, 6392. And the net proceeds and interest therefrom on
19 the interlocutory sale, which the Court previously had ordered
20 of real report located at 708 Kuhlman Houston, Texas. The net
21 proceeds are, approximately, \$202,873.94, after paying off all
22 tax liens and all back mortgage payments due and owing at the
23 time of the sale.

24 Those would be the assets the Government will forfeit.

25 THE COURT: You understand that's part of your plea

1 agreement?

2 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

3 THE COURT: And you acknowledge that at this time?

4 DEFENDANT FLORITA TOLENTINO: Yes, ma'am.

5 THE COURT: And, Mr. Tolentino, you agree that's part
6 of your agreement?

7 DEFENDANT NOEL TOLENTINO: Yes, I do.

8 THE COURT: And you acknowledge it?

9 DEFENDANT NOEL TOLENTINO: Yes, ma'am.

10 THE COURT: Anything further on behalf of the
11 Government as to these two cases?

12 MS. GARDES: No, Your Honor.

13 THE COURT: Anything, Mr. Abraham?

14 MR. ABRAHAM: No, Your Honor.

15 THE COURT: Mr. Velarde?

16 MR. VELARDE: No, Your Honor.

17 THE COURT: Your sentencing date then is March 19th,
18 9:00 in the morning for both.

19 MR. ISLAS: Your Honor, Luis Islas, who's here with
20 Angelica Tolentino. I have been given, by Ms. Gardes, a
21 petition to adjudicate interest in property and consent to
22 final criminal forfeiture for my client, Angelica Tolentino, to
23 sign. There is one paragraph that I requested Ms. Gardes to
24 remove from the petition. But I thought it prudent if I would
25 stand here right now and assure the Court that my client has

1 agreed not to contest the forfeiture of those assets that were
2 set forth by Ms. Gardes just a few minutes ago at this plea. I
3 wanted to state that for the record.

4 THE COURT: Does she have any problem with
5 acknowledging that on the record? Then she can sign the
6 report.

7 DEFENDANT ANGELICA TOLENTINO: Your Honor, your
8 question?

9 THE COURT: Do you have any problems with just
10 acknowledging that on the record, saying --

11 DEFENDANT ANGELICA TOLENTINO: I acknowledge that --
12 what he said.

13 THE COURT: All right. So noted on the record.

14 Let me ask Ms. Gardes because we have the jury being
15 notified tonight whether or not they need to come in for
16 Friday. Where does that put it including for the record, would
17 you let me know what then is the intent of the --

18 MS. GARDES: The Government would move for a
19 continuance on the case of Ms. Angelica Tolentino as the case
20 is going to be dismissed at the time of sentencing against her
21 under the terms of the plea agreement.

22 THE COURT: Okay.

23 MS. GARDES: As for the corporate defendants, those
24 summonses are still sitting at the Texas Department of State.
25 So, I guess, to be on the safe side, we would be dismissing,

1 move for a continuance until March 19th.

2 THE COURT: So it would be your intention then to
3 dismiss as to all the --

4 MS. GARDES: Remaining defendants.

5 THE COURT: Except for these two. And you would move
6 for dismissals at the time of sentencing. But you're asking
7 for continuances?

8 MS. GARDES: That's correct, Your Honor.

9 THE COURT: Mr. Islas, this is your client's speedy
10 trial right. I need to make sure you're in agreement with that
11 continuance.

12 MR. ISLAS: I don't object to the direction we're
13 going. I would have to be crazy. I have been known to be
14 crazy, but not this time.

15 THE COURT: Based on that, the Court will grant the
16 continuance as to Angelica Tolentino, and the other defendants
17 pending the agreement. And as I've said to you both, should
18 the Court not follow the plea agreement, then I will allow you
19 to withdraw.

20 MS. GARDES: With speedy trial waived as between now
21 and March 19th.

22 THE COURT: That's correct. That's indicative by his
23 agreement.

24 MR. VELARDE: Thank you.

25 THE COURT: Let me say to everyone, I know this has

1 been a hotly contested case for many. I appreciate all of your
2 hard work in this case. And I want to say I know many of you
3 spent the entire vacation trying to get this resolved. I
4 appreciate all the hard work.

5 (Recess.)
6
7
8
9
10
11
12
13
14
15
16

17 * * * * *

18 I certify that the foregoing is a correct transcript
19 from the record of proceedings in the above-entitled matter. I
20 further certify that the transcript fees and format comply with
21 those prescribed by the Court and the Judicial Conference of
22 the United States.
23

24 Signature: /s/_____ Date: March 14, 2008
25 David A. Perez, CSR, RPR

David A. Perez, CSR, RPR